

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARTHA BALANZAR REYES,)	
)	
Plaintiff,)	Case No. _____
)	
v.)	(Removed from the
)	Circuit Court of Cook County,
MENARD, INC.,)	Case No. 20 L 10611)
)	
Defendant.)	

NOTICE OF REMOVAL

NOW COMES the Defendant, MENARD, INC. ("Menard"), by and through its attorneys, Ottosen DiNolfo Hasenbalg & Castaldo, Ltd., pursuant to 28 U.S.C. §§ 1332 and 1441, and files this Notice of Removal of the above captioned matter from the Circuit Court of Cook County, Illinois, under Case Number 20 L 10611, to this Honorable Court.

In support of this Notice, Menard states the following:

JURISDICTION

1. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a)(1), and is one which may be removed to this Court by Menard pursuant to the provisions of 28 U.S.C. § 1441(a) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, because the Plaintiff, MARTHA BALANZAR REYES ("Plaintiff"), is a citizen of Illinois; the Defendant, Menard, is a Wisconsin Corporation; and Plaintiff is seeking from Menard damages in excess of \$75,000 for serious personal injuries.

STATEMENT OF FACTS

2. On October 6, 2020, an action was commenced in the Circuit Court of Cook County, Illinois, entitled “Martha Balanzar Reyes, Plaintiff, v. Menard, Inc., Defendant” (Case Number 20 L 10611).

3. Menard was served with summons on December 22, 2020 and received a copy of Plaintiff's complaint on the same date. As a result, this Notice is filed within the time required by law.

4. A copy of all process, pleadings and orders served upon Menard in the state court action are attached hereto as **Exhibit A**.

5. This Notice for Removal is timely made under 28 U.S.C. § 1446(b). Not more than 30 days have passed since service of the Complaint on Menard which enabled Menard to ascertain that this case was removable.

BASIS FOR REMOVAL

6. Removal of a civil action is allowed under 28 U.S.C. § 1441 by a Defendant who is sued on a claim or right that has original jurisdiction in the federal district court.

7. This claim is removable based on 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000 and there is complete diversity of citizenship between the plaintiff and the defendant, thus the action is within the subject matter jurisdiction of this Court.

8. At the time that this action commenced, Plaintiff was, and continues to be, a citizen of the State of Illinois.

9. At the time that this action commenced, Menard was, and continues to be, a corporation incorporated under the laws of Wisconsin, having its principal place of business in the State of Wisconsin at 5101 Menard Drive, Eau Claire, Wisconsin 54703.

10. This action is a civil action in which the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, because Plaintiff has alleged, through her Complaint and statements made by her attorney on her behalf, that her damages are in excess of \$75,000.

11. Plaintiff's Complaint alleges that as a result of a shopping cart striking her from behind while on a moving pathway inside Menard's store, she sustained "personal, permanent and pecuniary" injuries.

12. After serving Menard with the Complaint, Plaintiff's attorney communicated with Menard's attorney and revealed that Plaintiff's medical bills, which included a surgery to repair damage resulting from the alleged accident, totaled more than \$133,000.

13. Menard offered to stipulate with Plaintiff that her damages are less than or equal to \$75,000, however Plaintiff's attorney declined to stipulate.

COMPLIANCE WITH REMOVAL PROCEDURES

15. Menard has complied with all the procedural requirements for removal set forth in 28 U.S.C. § 1446. As noted above, the notice of removal is being filed within 30 days of the service of the lawsuit.

16. Notice of this removal is being provided to Plaintiff, through her attorneys of record and the Circuit Court of Cook County, Illinois.

17. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the Circuit Court of Cook County, Illinois, in Case No. 2020 L 10611.

WHEREFORE, for the foregoing reasons, the Defendant, Menard, Inc., removes this action from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division, and respectfully requests that the Court exercise jurisdiction over this matter.

Respectfully submitted,

MENARD, INC.

Dated: January 21, 2021

By: /s/ W. Anthony Andrews
One of its attorneys

W. Anthony Andrews (ARDC No. 6217267)
Ryan R. Morton (ARDC No. 6327355)
OTTOSEN DINOLFO HASENBALG & CASTALDO, LTD.
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, W. ANTHONY ANDREWS, do hereby certify, and having been first duly sworn upon oath do hereby state, that I have read the above and foregoing Notice of Removal, by me subscribed as signatory for MENARD, INC., and the same is true and correct to the best of my knowledge and belief.

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

SUBSCRIBED and SWORN to before
me this 21st day of January, 2021.

/s/ Andrea Mangialardi
NOTARY PUBLIC

W. Anthony Andrews (ARDC No. 6217267)
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MARTHA BALANZAR REYES,

Plaintiff,

v.

MENARD, INC.,

Defendant.

Case No. _____

(Removed from the
Circuit Court of Cook County,
Case No. 20 L 10611)

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2021, I filed the foregoing ***Notice of Removal*** with the Clerk of the U.S. District Court, Eastern Division, and I hereby certify I have mailed by United States Postal Service, the documents to the following:

TO: CARY J. WINTROUB & ASSOCIATES
10 South LaSalle Street, Suite 2424
Chicago, Illinois 60603

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

W. Anthony Andrews (ARDC No. 6217267)
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